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EXAMINER

VAN HANDEL, MICHAEL P

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/037,005	<b>Applicant(s)</b> MATZ ET AL.	
	<b>Examiner</b> MICHAEL VAN HANDEL	<b>Art Unit</b> 2424	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 31-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 31-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/26/2010 has been entered.

### ***Response to Amendment***

2. This action is responsive to an Amendment filed 2/26/2010. Claims **1-28, 31-37** are pending. Claims **1, 2, 15-28, 31-37** are amended. Claims **29, 30, 38-50** are canceled. The examiner hereby withdraws the rejection of claims **1-28, 31-35** under 35 USC 112, first paragraph, in light of the amendments.

### ***Response to Arguments***

3. Applicant's arguments regarding claims **15** and **36**, filed 2/26/2010, have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's arguments regarding claim **1**, filed 2/26/2010, have been fully considered, but they are not persuasive.

Regarding claim **1**, the applicant argues that Vinson et al. does not disclose classifying the subscriber content-choice data based on a percentage of historical viewing time for a genre

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and receiving a request for a number of viewers having a classification. The examiner respectfully disagrees. Vinson et al. discloses storing tables storing what a user watches over time (p. 22, paragraph 315 & Figs. 22(a)-22(l)). Statistical pattern recognition is applied to these behavior tables to find user interest correlations and produce a STB profile (p. 22, paragraph 314). For example, it can be determined that a particular STB is used to experience a large number of home-improvement shows (p. 22, paragraph 314). This meets the limitation of classifying the subscriber content-choice data based on a percentage of historical viewing time for a genre, as currently claimed. Vinson et al. further discloses providing web access to the viewership data, so that customers can search for particular viewership data for a number of viewers for content targeting (p. 8, paragraph 105 & p. 22, paragraphs 319-321). This meets the limitation of receiving a request for a number of viewers having a classification, as currently claimed.

### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims **36, 37** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed towards a computer-readable storage medium; however, the examiner notes that the specification defines that the medium can be a transmission device. Applicant's specification further states that the medium may transmit or carry instructions to a computer and may include a router, private or public network, or other transmission device or channel (p. 28, paragraph 77 of Applicant's specification). The examiner

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notes that a claim directed to a signal *per se* does not appear to be a process, machine, manufacture, or composition of matter. The examiner recommends that Applicant amend the claim to recite a “non-transitory” computer-readable medium. See **MPEP 2106.01** for guidance.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims **36, 37** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Referring to claim **36**, the examiner fails to find support for the phrases “merging, by a network server, content metadata with the subscriber’s events to describe the subscriber’s content access selections” and “applying priority assignments to the content metadata such that metadata from an electronic programming guide has a lower priority than national ad metadata and local ad insert metadata has a higher priority than national ad metadata” in Applicant’s specification. Applicant states that support for these features may be found in column 19, lines 25-55 and column 9, line 56 through column 20, lines 23 of US Application 09/496,825 to Grauch et al., which is incorporated by reference. The examiner notes that, while Applicant may incorporate a co-pending application by reference, the incorporation by reference must be done

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with particularity so as to illustrate to one of ordinary skill in the art that Applicant had possession of the claimed invention at the time that the invention was made. Furthermore, here, subscriber's events are sent to the clearinghouse as an XML file that already contains program metadata, including the program name (Fig. 2 of Applicant's specification). It is unclear to the examiner how or why this would need to be combined with program metadata when the XML file already contains program metadata.

Claim 37 is rejected as being dependent on claim 36.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims **1, 3-8, 10-14** are rejected under 35 U.S.C. 102(e) as being anticipated by Vinson et al. (of record).

Referring to claim **1**, Vinson et al. discloses a method for receiving subscriber content-choice information, comprising:

- collecting subscriber content-choice data from a plurality of service providers (user television viewing behavior is collected at a set-top box and forwarded to a head-end bunker. Database tables are created indicating television viewing data over time)(p.

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- 3, paragraph 27; p. 7, paragraphs 94-100; p. 18, paragraphs 272, 273; p. 21, paragraphs 308-310; & Figs. 22(a)-22(l));
- storing each service provider's subscriber content-choice data in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-104 & Fig. 11);
  - classifying the subscriber content-choice data based on a percentage of historical viewing time for a genre (users watches a large number of home-improvement shows)(p. 22, paragraph 314);
  - receiving a request for a number of viewers having a classification (p. 7, 8, paragraphs 104-106 & p. 22, paragraphs 319, 320); and
  - developing a query for the clearinghouse database (p. 6, paragraph 89 & p. 22, paragraph 321).

Referring to claim **3**, Vinson et al. discloses the method of claim 1, wherein the subscriber content-choice data comprises data relating to a television program received by the subscriber (p. 6, paragraphs 82, 83).

Referring to claim **4**, Vinson et al. discloses the method of claim 3, wherein the subscriber content-choice data comprises at least one of date information and time information related to the television program (p. 6, paragraph 83).

Referring to claim **5**, Vinson et al. discloses the method of claim 1, wherein the subscriber content-choice data further comprises data relating to the subscriber (p. 6, paragraph 84).

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Referring to claim **6**, Vinson et al. discloses the method of claim 5, wherein the data relating to the subscriber comprises a subscriber identifier (p. 21, paragraph 304).

Referring to claim **7**, Vinson et al. discloses the method of claim 5, wherein the data relating to the subscriber comprises demographic data (p. 8, paragraph 114).

Referring to claim **8**, Vinson et al. discloses the method of claim 1, wherein the subscriber content-choice data further comprises data relating to a subscriber system (p. 7, paragraph 97).

Referring to claim **10**, Vinson et al. discloses the method of claim 1, wherein the subscriber content-choice data comprises data relating to an advertisement received by the subscriber (p. 21, paragraph 306).

Referring to claim **11**, Vinson et al. discloses the method of claim 1, wherein the subscriber content-choice data comprises data relating to a viewing pattern of the subscriber (p. 12, paragraph 171).

Referring to claim **12**, Vinson et al. discloses the method of claim 1, wherein receiving the request for the subscriber content-choice data comprises receiving an electronic request form that is standardized for all the service providers (p. 6, paragraphs 89-91; p. 8, paragraph 105; & Figs. 26-35).

Referring to claim **13**, Vinson et al. discloses the method of claim 1, further comprising periodically requesting that the service providers send their respective subscriber content-choice data for storage in the database (p. 7, paragraphs 99-102).

Referring to claim **14**, Vinson et al. discloses the method of claim 1, further comprising sorting the collected subscriber content-choice data (p. 8, paragraphs 112, 113).



***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims **2, 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al. in view of Eldering et al. (of record).

Referring to claim **2**, Vinson et al. discloses the method of claim 1. Vinson et al. does not specifically disclose assigning a sub-classification to the subscriber content-choice data for a lesser percentage of historical viewing time. Eldering et al. discloses monitoring subscriber television viewing interaction and generating viewing characteristics therefrom. Eldering et al. further discloses generating a preferred program category characteristic profile for each subscriber reflecting the top five program categories chosen by that subscriber and the associated relative durations that those program categories were watched (p. 8, paragraphs 106, 107 & Fig. 13). In the example in figure 13, shopping is the top category with 30.1% of the viewing time, while cartoon is the second category with 11.7% of the viewing time. As such, the examiner interprets the cartoon, drama, comedy, and adventure categories to be sub-classifications. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the subscriber profile data of Vinson et al. to include a list of categories with percentages of viewing time, such as that taught by Eldering et al. in order to develop a better profile that can be used for targeting ads (Eldering et al. p. 1, paragraph 20).

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Referring to claim 9, Vinson et al. discloses the method of claim 1. Vinson et al. further discloses associating monitored user data with data describing service provider type, name, and geographical location (p. 6, paragraph 90 & p. 22, paragraphs 319, 320). Vinson et al. further discloses combining the monitored user data of multiple users and providing subscribers with access to the monitored data through a web-based system (p. 6, paragraph 89 & Figs. 26-35). Vinson et al. does not specifically disclose that collecting the subscriber content-choice data comprises receiving an eXtensible Markup Language file having linear data describing the type of service provider, the name of the service provider, and a location associated with the service provider. Eldering et al. discloses monitoring subscriber television viewing interaction and generating viewing characteristics therefrom. At least one type of subscriber profile from a subset of subscriber characteristics is generated. Groups are formed by correlating at least one type of subscriber profile. Groups may correlate elements of a content delivery system, such as head-ends (see Abstract). Eldering et al. further discloses monitored viewing characteristics include network preference, genre preference, and geographical location (p. 2, paragraph 25 & p. 5, paragraph 84). Eldering et al. still further discloses aggregating portions of the monitored information to create a subscriber profile. The profile is stored in an XML format (p. 11, paragraph 134). The examiner notes that XML inherently stored data in a linear, line-by-line textual format. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to store the monitored user data of Vinson et al. in an XML format, such as that taught by Eldering et al. in order to use a standardized format to ensure that multiple data files can be combined and manipulated (Eldering et al. p. 11, paragraph 134).

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13. Claims **15-28, 31-35** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al. in view of Eldering et al., and further in view of Aratani et al.

Referring to claim **15**, Vinson et al. discloses a system for receiving and distributing content-choice information, comprising:

- a processor executing code stored in memory that causes the processor to:
  - collect subscriber content-choice data from a plurality of service providers as a file listing a primary classification based on a percentage of historical viewing time for genres of programming (user television viewing behavior is collected at a set-top box and forwarded to a head-end bunker and then to a data center. Database tables are created indicating television viewing data over time, such as that user watches a large number of home-improvement shows)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18, paragraphs 272, 273; p. 21, paragraphs 308-310; p. 22, paragraph 314; & Figs. 11, 22(a)-22(l));
  - store each service provider's subscriber content-choice data in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-104 & Fig. 11);
  - receive a request for a number of viewers having a particular classification (p. 7, 8, paragraphs 104-106 & p. 22, paragraphs 319, 320); and
  - develop a query for the clearinghouse database (p. 6, paragraph 89 & p. 22, paragraph 321).

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Vinson et al. does not specifically disclose assigning a sub-classification to the subscriber content-choice data for a percentage of historical viewing time for genres of programming. Eldering et al. discloses monitoring subscriber television viewing interaction and generating viewing characteristics therefrom. Eldering et al. further discloses generating a preferred program category characteristic profile for each subscriber reflecting the top five program categories chosen by that subscriber and the associated relative durations that those program categories were watched (p. 8, paragraphs 106, 107 & Fig. 13). In the example in figure 13, shopping is the top category with 30.1% of the viewing time, while cartoon is the second category with 11.7% of the viewing time. As such, the examiner interprets the cartoon, drama, comedy, and adventure categories to be sub-classifications. When transmitting this profile, it is sent as an XML file (p. 11, paragraph 134). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the subscriber profile data of Vinson et al. to include a list of categories with percentages of viewing time and to send it as an XML file, such as that taught by Eldering et al. in order to develop a better profile that can be used for targeting ads (Eldering et al. p. 1, paragraph 20) and to use a standardized format to ensure that multiple data files can be combined and manipulated (Eldering et al. p. 11, paragraph 134).

The combination of Vinson et al. and Eldering et al. does not specifically teach that the primary classification and sub-classification are listed as a line entry in the XML file. Aratani et al. discloses placing two genres on the same line of an XML file (news and politics)(Fig. 4). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the XML file in the combination of Vinson et al. and Eldering et al. to place the

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genres of the subscriber profile on a single line of the XML file, such as that taught by Aratani et al. in order to make related information easier to locate.

Referring to claim **16**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to list the primary classification within quotes (the examiner notes that it is inherent to XML to place string values in quotes)(see Aratani et al. Fig. 4).

Referring to claim **17**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive data relating to television programs received by the subscriber (Vinson et al. p. 6, paragraphs 82, 83).

Referring to claim **18**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive at least one of date information and time information related to a television program (Vinson et al. p. 6, paragraph 83).

Referring to claim **19**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive data relating to the subscriber (Vinson et al. p. 6, paragraph 84).

Referring to claim **20**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive a subscriber identifier (Vinson et al. p. 21, paragraph 304).

Referring to claim **21**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive demographic data (Vinson et al. p. 8, paragraph 114).

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Referring to claim **22**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive data relating to a subscriber system (Vinson et al. p. 7, paragraph 97).

Referring to claim **23**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive the file as an eXtensible Markup Language file (as taught by Eldering et al. in claim 15)(p. 11, paragraph 134).

Referring to claim **24**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive data relating to an advertisement received by the subscriber (Vinson et al. p. 21, paragraph 306).

Referring to claim **25**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive data relating to the viewing patterns of the subscriber (Vinson et al. p. 12, paragraph 171).

Referring to claim **26**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to receive an electronic request form that is standardized for all the service providers (Vinson et al. p. 6, paragraphs 89-91; p. 8, paragraph 105; & Figs. 26-35).

Referring to claim **27**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to periodically request that the service providers send their respective subscriber content-choice data for storage in the clearinghouse database (Vinson et al. p. 7, paragraphs 99-102).

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Referring to claim **28**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to list the sub-classification within quotes (the examiner notes that it is inherent to XML to place string values in quotes)(see Aratani et al. Fig. 4).

Referring to claim **31**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on geographic location (Vinson et al. p. 6, paragraph 90).

Referring to claim **32**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on subscriber classification data (Vinson et al. p. 6, paragraph 90).

Referring to claim **33**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on data relating to television programs viewed by a plurality of subscribers (Vinson et al. p. 6, paragraph 90).

Referring to claim **34**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to select the subscriber content-choice data based on data relating to advertisements viewed by a plurality of subscribers (Vinson et al. p. 21, paragraph 304).

Referring to claim **35**, the combination of Vinson et al., Eldering et al., and Aratani et al. teaches the system of claim 15, wherein the code further causes the processor to select the

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subscriber content-choice data based on at least one of a viewing date and a geographic location (Vinson et al. p. 22, paragraph 320).

14. Claims **36, 37** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinson et al. in view of Eldering et al., further in view of Aratani et al., and still further in view of Grauch et al. (WO 98/31114)(of record).

Referring to claim **36**, Vinson et al. discloses a computer-readable storage medium storing computer program code for performing a method, the method comprising:

- collecting subscriber events from a plurality of service providers with each subscriber's events as a file listing a primary classification for a subscriber based on a percentage of historical viewing time for genres of programming (user television viewing behavior is collected at a set-top box and forwarded to a head-end bunker and then to a data center. Database tables are created indicating television viewing data over time, such as that user watches a large number of home-improvement shows)(p. 3, paragraph 27; p. 7, paragraphs 94-100; p. 18, paragraphs 272, 273; p. 21, paragraphs 308-310; p. 22, paragraph 314; & Figs. 11, 22(a)-22(l));
- storing each service provider's subscriber content-choice data in a clearinghouse database (data is uploaded from the head-end bunkers to a data center that serves as a central repository for all data gathered from a plurality of head-ends)(p. 7, paragraphs 101-104 & Fig. 11);
- receiving a request for a number of viewers having a particular classification (p. 7, 8, paragraphs 104-106 & p. 22, paragraphs 319, 320); and



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- developing a query for the clearinghouse database (p. 6, paragraph 89 & p. 22, paragraph 321).

Vinson et al. does not specifically disclose assigning a sub-classification to the subscriber content-choice data for a percentage of historical viewing time for genres of programming. Eldering et al. discloses monitoring subscriber television viewing interaction and generating viewing characteristics therefrom. Eldering et al. further discloses generating a preferred program category characteristic profile for each subscriber reflecting the top five program categories chosen by that subscriber and the associated relative durations that those program categories were watched (p. 8, paragraphs 106, 107 & Fig. 13). In the example in figure 13, shopping is the top category with 30.1% of the viewing time, while cartoon is the second category with 11.7% of the viewing time. As such, the examiner interprets the cartoon, drama, comedy, and adventure categories to be sub-classifications. When transmitting this profile, it is sent as an XML file (p. 11, paragraph 134). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the subscriber profile data of Vinson et al. to include a list of categories with percentages of viewing time and to send it as an XML file, such as that taught by Eldering et al. in order to develop a better profile that can be used for targeting ads (Eldering et al. p. 1, paragraph 20) and to use a standardized format to ensure that multiple data files can be combined and manipulated (Eldering et al. p. 11, paragraph 134).

The combination of Vinson et al. and Eldering et al. does not specifically teach that the primary classification and sub-classification are listed as a line entry in the XML file. Aratani et al. discloses placing two genres on the same line of an XML file (news and politics)(Fig. 4). It would have been obvious to one of ordinary skill in the art at the time that the invention was

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made to modify the XML file in the combination of Vinson et al. and Eldering et al. to place the genres of the subscriber profile on a single line of the XML file, such as that taught by Aratani et al. in order to make related information easier to locate.

The combination of Vinson et al., Eldering et al., and Aratani et al. does not specifically teach merging, by a network server, content metadata with the subscriber's events to describe the subscriber's content access selections and applying priority assignments to the content metadata such that metadata from an electronic programming guide has a lower priority than national ad metadata and local ad insert metadata has a higher priority than the national ad metadata.

Grauch et al. discloses merging content metadata with subscriber's events to describe the subscriber's content access selections (p. 30 lines 11-30 & p. 31, lines 1-6). Grauch et al. further discloses applying priority assignments to the content metadata such that metadata from an electronic programming guide has a lower priority than national ad metadata and local ad insert metadata has a higher priority than the national ad metadata (p. 31, lines 7-30 & p. 32, lines 1-6).

It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the monitoring system in the combination of Vinson et al., Eldering et al., and Aratani et al. to include merging content metadata with subscriber's events to describe the subscriber's content access selections and applying priority assignments to the content metadata such that metadata from an electronic programming guide has a lower priority than national ad metadata and local ad insert metadata has a higher priority than the national ad metadata, such as that taught by Grauch et al. in order to better match raw information on channels viewed with programming information (Grauch et al. p. 3, lines 14-15).

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Referring to claim 37, the combination of Vinson et al., Eldering et al., Aratani et al., and Grauch et al. teaches the computer-readable storage medium of claim 36, further comprising program code for receiving the file as an eXtensible Markup Language file (as taught by Eldering et al. in claim 36)(p. 11, paragraph 134).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Michael Van Handel/  
Examiner, Art Unit 2424

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